

STATE OF SOUTH CAROLINA

Princess McMillan v. South Carolina Electric & Gas  
Company

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2008 - 280 - E

(Please type or print)

Submitted by: K. Chad Burgess

SC Bar Number: 69456

Address: SCANA Corp.  
1426 Main Street MC 130  
Columbia, SC 29201

Telephone: 803-217-8141

Fax: 803-217-7931

Other: \_\_\_\_\_

Email: chad.burgess@scana.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

**DOCKETING INFORMATION** (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	



January 7, 2009

K. Chad Burgess  
Senior Counsel

chad.burgess@scana.com

**VIA ELECTRONIC FILING**

The Honorable Charles Terreni  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
101 Executive Center Drive (29210)  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Princess McMillan v. South Carolina Electric & Gas Company  
Docket No. 2008-280-E

Dear Mr. Terreni:

By way of this letter, South Carolina Electric & Gas Company ("SCE&G") hereby files its Motion to Dismiss the complaint of Ms. Princess McMillan ("Complainant") in the above-captioned docket. The Complainant failed to pre-file direct testimony per the Commission staff's instructions and the complaint fails to make any allegation of a violation of the applicable statutes or regulations under the Commission's purview. Therefore, this matter should be dismissed.

Further, as the Complainant failed to pre-file her direct testimony and a motion to dismiss is pending, SCE&G is not required to file its pre-filed testimony, which would otherwise be due today, and instead will wait for the Commission's decision on the motion to dismiss.

By copy of this letter SCE&G is serving this response on Ms. McMillan and the South Carolina Office of Regulatory Staff.

If you have any questions, please advise.

Very truly yours,



K. Chad Burgess

KCB'kms  
Enclosure

cc: Ms. Princess McMillan  
Shannon Bowyer Hudson, Esquire  
(via first-class mail w/enclosure)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2008-280-E**

**IN RE:**

Princess McMillan,

Complainant/Petitioner,

v.

South Carolina Electric & Gas Company,

Defendant/Respondent.

---

**MOTION TO DISMISS OF  
SOUTH CAROLINA ELECTRIC  
& GAS COMPANY**

Pursuant to 26 S.C. Code Ann. Regs. 103-829 and applicable South Carolina law, South Carolina Electric & Gas Company (“SCE&G” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the grounds that (1) the complainant has failed to follow the Commission rules and regulations and failed to file prefiled testimony in accordance with the Commission’s directions and (2) the complaint fails to assert any claim within the jurisdiction of the Commission or any facts sufficient to state a claim upon which relief can be granted.

**BACKGROUND**

This matter arises from a complaint filed with the Commission on or about July 22, 2008 (“Complaint”). Since 2005, Complainant has had at least five different accounts with SCE&G under at least two different names. The most recent final bill issued to Complainant for service through July 9, 2008, shows a final balance due of \$1,213.07.

Because the Complainant never fully paid off the prior accounts, those balances carried forward from one account to the other with changes in address and led to an escalation of her overall debt to SCE&G. The debt rose to over \$1,892. Complainant made a payment of \$700 in May 2008. SCE&G offered the Complainant a Deferred Payment Plan (“DPP”), but Complainant failed to sign the necessary papers to implement the DPP. With no further payment and the account in arrears, service was terminated. The outstanding balance on Complainant’s account is \$1,231.27. As Complainant is a demonstrated credit risk, SCE&G has required a deposit on any future account which Complainant seeks to establish as well as payment for the arrearage.

### **ARGUMENT**

**I. Complainant has failed to file prefiled testimony and this matter should be dismissed.**

By letter dated September 16, 2008, Commission Staff established deadlines for the parties to this proceeding to file prefiled testimony and served this document on all parties of record, including Complainant. Complainant’s prefiled direct testimony was due on December 23, 2008; however, Complainant failed to file the required testimony. See also 26 S.C. Code Ann. Regs. 103-845 (prefiled testimony requirement). As Complainant has failed to comply with the Commission’s rules and procedures, this case should be dismissed with prejudice. See Jackson v. S.C. Electric & Gas Co., Order Granting Motion to Dismiss, Order No. 2007-670, Docket No. 2007-262-EG (S.C. Pub. Serv. Comm’n Sept. 27, 2007) (dismissing case when complainant failed to prefile testimony).

**II. The Complaint fails to state a claim upon which relief can be granted.**

The Commission’s jurisdiction is limited to the adjudication of any claim regarding any act or omission by an electrical utility allegedly in violation “of any law which the commission

has jurisdiction to administer or of any order or rule of the commission.” S.C. Code Ann. § 58-27-1940. The Complainant does not dispute the amounts owed or that the account is past due. There is no allegation that service was improperly terminated. Nor can there be any good faith argument that a deposit is not required considering the account history. There is simply no allegation of wrongdoing in the Complaint. Because the Complaint fails to identify, allege, or complain of any act or omission by SCE&G, the Commission has no jurisdiction over the Complaint.

### **CONCLUSION**

Complainant has failed to file prefiled testimony in accordance with the Commission direction. The Complaint also fails to state a claim for which the Commission has jurisdiction and authority. For these reasons, this motion to dismiss should be granted and this matter dismissed with prejudice.

Respectfully submitted,



---

K. Chad Burgess, Esquire  
**South Carolina Electric & Gas Company**  
1426 Main Street  
Mail Code 130  
Columbia, South Carolina 29201  
Telephone: (803) 217-8141  
Facsimile: (803) 217-7931  
chad.burgess@scana.com

Attorney for Defendant/Respondent  
South Carolina Electric & Gas Company

Columbia, South Carolina  
January 7, 2009

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2008-280-E**

**IN RE:**

Princess McMillan,

Complainant/Petitioner,

v.

South Carolina Electric & Gas Company,

Defendant/Respondent.

---

**AFFIDAVIT**


Personally appeared before me Marsha H. Klatt who, having first been duly sworn, deposes and states as follows:

1. My name is Marsha H. Klatt and I am a Senior Analyst for South Carolina Electric & Gas Company ("SCE&G" or "Company"). Among other things, I am responsible for the investigation of customer complaints received through the South Carolina Office of Regulatory Staff as well as customer complaints filed with the Public Service Commission of South Carolina ("Commission") requesting a hearing before the Commission. I am competent to make this affidavit.

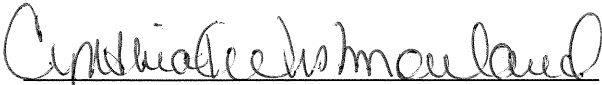
2. This affidavit is based upon my personal knowledge and review of documents received and maintained in the ordinary course of business by SCE&G. I am familiar with the records of SCE&G that pertain to Ms. Princess McMillan and have personally worked on the documents and records concerning Ms. McMillan.

3. I assisted SCE&G's attorney in preparing the Company's Answer to the Complaint of Ms. McMillan filed with the Commission on August 25, 2008, as well as the Company's Motion to Dismiss dated January 7, 2009. I have read the Answer and Motion to Dismiss and verify that the information contained within the Answer and Motion to Dismiss is true and accurate to best of my knowledge, information and belief.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Marsha H. Klatt

Sworn to and subscribed before me  
this 7th day of January, 2009

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 09-13-2011

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2008-280-E**

IN RE:

Princess McMillan,	)	
	)	
Complainant/Petitioner,	)	<b>CERTIFICATE</b>
	)	<b>OF SERVICE</b>
v.	)	
	)	
South Carolina Electric & Gas Company,	)	
	)	
Defendant/Respondent.	)	
_____	)	

This is the certify that I have caused to be served this day one (1) copy of South Carolina Electric & Gas Company's **Motion to Dismiss** via U.S. Mail to the persons named below at the addresses set forth:

Princess McMillan  
302 St. Patrick Road  
Columbia, SC 29210

Shannon Bowyer Hudson, Esquire  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201

  
\_\_\_\_\_  
Karen M. Scruggs

Columbia, South Carolina  
This 7th day of January 2009